IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.532 OF 2004
IN
SUMMARY SUIT NO.1481 OF 2004

Noshir Khambata ....Plaintiff
V/s.
Samveg Agencies Pvt.Ltd. ....Defendant

Mr.Bharat Joshi for the Plaintiff.
None for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD AUGUST, 2005.

P.C. :

1. The suit is filed to recover the amounts due under a written agreement between the Plaintiff and the Defendant dated 1.4.1996. The Plaintiff was the Managing Director of the Defendant from 1.4.1996 till 15.3.2001. His appointment as Managing Director was terminated with effect from 15.3.2001.

2. Clauses 5 and 8 of the said agreement dated 1.4.2001 read as under :-

> "5. You will paid be a salary of Rs.20,000/- p.m. which would be subject to an annual increment of Rs.5000/- p.m. on a calender year basis. In addition to the aforesaid

> salary, you will be paid a commission at the rate of 40% of the operating profit of the Company relating to its airline passenger and cargo business. Such operating profit will be on the basis of audited profit and loss account of the Company and will be without taking into account.
>
> a) Expenses not related to the aforesaid business ;
>
> b) Income - tax ;
>
> c) Commission payable to you ;
>
> 8. If in any event other than the circumstances stated above, your appointment as Managing Director is terminated, in addition to the terminal benefits by way of gratuity and other dues to which you will be entitled to, you shall also be entitled to a compensation equal to twice the amount of the remuneration (including commission) to which you are entitled on the basis of operating profits of the Company for the 12 months period preceding the month of the termination of your employment".

. In reply to the Plaintiff’s advocate notice demanding payment, the Defendant by its advocate letter dated 15th May, 2002, disputed the Plaintiff’s interpretation of the agreement dated 1.4.1996. It is not clear however on what basis the dispute was raised. There is no affidavit in reply either. It is however, pertinent to note that by the said letter, the Defendant stated that they would definitely pay

the amount found due and payable for a period ending 1.4.2001 till the date of termination. The Defendant submits that since the accounts had not been finalised, the said amount could not be paid.

3. Thereafter the accounts were finalised and on the basis thereof, the claim in suit has been raised. The same has been explained in detail in the plaint and in particular paragraph 6 thereof.

4. There is no affidavit in reply. There is nothing on record that militates against the Plaintiff’s claim.

5. In the circumstances, the Summons for Judgment is made absolute and the suit is decreed as prayed with costs.

. Refund as per rules.